

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
RANDY KLEINER : ORDER OF REVOCATION
_____ : DOCKET NO: 543-11/99-235

At its meeting of November 4, 1999, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that Randy Kleiner was convicted in 1995 on charges of possession of narcotics (heroin). As a result of such conviction, Kleiner was disqualified from public service pursuant to N.J.S.A. 18A:6-7.1 *et seq.* Kleiner did not appeal such disqualification before the Commissioner of Education. Upon review of the above information, at that November meeting the State Board of Examiners voted to issue Kleiner an Order to Show Cause. Kleiner currently holds a Teacher of Elementary School Certificate of Eligibility.

The Order to Show Cause was mailed to Kleiner by regular and certified mail on January 13, 2000. The regular mail was not returned and the certified mail receipt was returned. The Order provided that an Answer had to be filed within 20 days. Kleiner did not respond to the Order to Show Cause. On April 5, 2000, the Board of Examiners provided Kleiner an additional 10 days to respond to the Order. He was advised that if no response was received, the allegations in the Order to Show Cause would be deemed admitted and the State Board of Examiners would proceed to a decision as to revocation or suspension based on the evidence before it. Although the regular mail was not returned and the certified mail was claimed, once again, Kleiner did not respond to the Order to Show Cause.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Kleiner's disqualification from serving in the public schools of New Jersey gives the

Board just cause to act against his certificate pursuant to N.J.A.C. 6:11-3.6(a)1. Since Kleiner did not respond to the Order to Show Cause, the State Board of Examiners had no responsive pleading to consider in the hearing process. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding. N.J.A.C. 6:11-3.6(a)1. Since Kleiner's disqualification, which was predicated on the same offense as was set forth in the Order to Show Cause, is admitted, the Board of Examiners must now decide whether that constitutes a sufficient basis to act against his certificate pursuant to N.J.A.C. 6:11-3.6(a)1. We find that it does.

In enacting the Criminal History Review statute, N.J.S.A. 6-7.1 et seq. in 1986, the Legislature sought to protect public school pupils from contact with individuals whom it deemed to be a danger to them. In 1989 the Legislature specifically amended the statute to include all convictions concerning controlled dangerous substances as disqualifying offenses. See, N.J.S.A. 18A:6-7.1b. This amendment was a clear recognition on the part of the Legislature that individuals with such drug convictions should not be permitted to be in contact with school-aged children. The consistent and long-standing policy of this State is to eliminate the use of illegal drugs. See, In the Matter of the Tenure Hearing of David Earl Humphreys, 1978 S.L.D. 689. To that end, the State and the schools herein have engaged in extensive educational efforts to warn the citizenry of the perils of illicit drugs. See, In the Matter of the Certificate of Barbara Corwick, OAL Dkt. No. EDE 3562-87, State Board of Examiners decision (March 24, 1988) Those who violate this deep-rooted policy, *whether by the use of drugs or their manufacture and distribution*, endanger the public welfare; they cannot be entrusted with the responsibility of caring for school aged pupils. Accordingly, the State Board of Examiners finds that Kleiner's

disqualification from service in the public schools of this State because of his conviction for possession of narcotics provides just cause to take action against his certificate.

That strong policy statement on the part of the Legislature set forth in N.J.S.A. 18A:6-7.1b also offers guidance to the State Board of Examiners as to the appropriate sanction in this matter. An individual whose offense is so great that he is barred from service in public schools should not be permitted to retain the license that authorizes such service. Nor should a person who has been disqualified from teaching in a public school be permitted to continue to hold himself out as a teacher. Because the Legislature considers Kleiner's offense so significant, the State Board of Examiners in this matter believes that the appropriate sanction for his disqualification is the revocation of his certificate to teach.

Accordingly, it is therefore ORDERED that Randy Kleiner's Teacher of Elementary School Certificate of Eligibility be revoked on this 2nd day of November, 2000. It is further ORDERED that Kleiner return his certificate to the Secretary of the State Board of Examiners, Office of Licensing, CN 500, Trenton, NJ 08625-0500 within fifteen (15) days of receipt of this decision.

Secretary
State Board of Examiners

Date of Mailing: January 17, 2001

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.

IBG/MZ/kb/Randy Kleiner